

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DMITRIY SHIROKOV, on behalf of himself  
and all others similarly situated,

Plaintiff

v.

DUNLAP, GRUBB & WEAVER, PLLC; US  
COPYRIGHT GROUP; THOMAS DUNLAP;  
NICHOLAS KURTZ; GUARDALEY,  
LIMITED; and ACHTE/NEUNTE Boll Kino  
Beteiligungs Gmbh & Co KG,

Defendants.

CIVIL ACTION NO. 1:10-CV-12043-GAO

ORAL ARGUMENT REQUESTED

**DEFENDANT GUARDALEY LIMITED'S MOTION TO DISMISS  
THE SECOND AMENDED CLASS ACTION COMPLAINT**

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Defendant Guardaley Limited ("Guardaley") hereby moves to dismiss the Second Amended Class Action Complaint in its entirety pursuant to Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction, pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim, and pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction due to the plaintiff's want of standing. Guardaley incorporates herein the statement of reasons and citation of supporting authorities included in its Memorandum of Law in Support of Defendant Guardaley Limited's Motion to Dismiss the Second Amended Class Action Complaint filed contemporaneously with this motion.

Wherefore, Guardaley respectfully requests that the Court dismiss all of the plaintiff's claims against Guardaley in their entirety with prejudice, dismiss the related claims of the putative class with prejudice, and award Guardaley attorney's fees, costs, and any other relief that the court deems just and proper.

**REQUEST FOR ORAL ARGUMENT**

Guardaley, believing that oral argument will assist the Court and wishing to be heard, hereby requests a hearing on its motion to dismiss.

**GUARDALEY LIMITED**

By its attorneys,

*/s/ Harvey Weiner*

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**CERTIFICATE PURSUANT TO LOCAL RULE 7.1**

I hereby certify that I have conferred with plaintiff's counsel regarding the foregoing motion to dismiss and attempted in good faith to resolve or narrow the issues in dispute.

*/s/ Kevin C. Cain*

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Kevin C. Cain

**CERTIFICATE OF SERVICE**

I, Harvey Weiner, counsel for Guardaley Limited, do hereby certify, that I have this date, served the foregoing *Defendant Guardaley Limited's Motion to Dismiss the Second Amended Class Action Complaint* by causing a copy of said document to be sent electronically to the registered participants in this case as identified on the Notice of Electronic Filing (NEF) and paper copies mailed, first class mail, postage prepaid to any non-registered participants in this case.

*/s/ Harvey Weiner*

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Harvey Weiner